

State of South Dakota

EIGHTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2013

400U0295

SENATE BILL NO. 65

Introduced by: The Committee on Commerce and Energy at the request of the South Dakota
Real Estate Commission

1 FOR AN ACT ENTITLED, An Act to revise certain exemptions from licensure by the Real
2 Estate Commission.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-21A-27 be amended to read as follows:

5 36-21A-27. ~~A person, unless exempted under this chapter, who, directly or indirectly, for~~
6 ~~another, with the intention or upon the promise of receiving compensation or consideration,~~
7 ~~offers, attempts or agrees to perform or performs any single act that may be performed by a~~
8 ~~broker as described in § 36-21A-6, whether as a part of a transaction or as an entire transaction,~~
9 ~~is deemed a broker or salesman within the meaning of this chapter. No~~ Any person licensed
10 under this chapter ~~comes within~~ does not qualify for the exceptions set forth in this chapter
11 including any transaction in which ~~he~~ that person has a personal interest.

12 Section 2. That § 36-21A-29 be amended to read as follows:

13 36-21A-29. This chapter does not apply to the following:

14 (1) Any person who as a bona fide owner or lessor, performs any of the acts described
15 in §§ 36-21A-6 and 36-21A-12 with reference to property owned, or leased by the



1 person, or to any regular employees thereof, if such acts are performed in the regular
2 course of, or as an incident to the management of such property or investment in such
3 property;

4 (2) Any public officer while performing the officer's duties;

5 (3) Any person owning and operating a cemetery and selling lots solely for use as burial
6 plots;

7 (4) Any person acting as a receiver, trustee, personal representative, guardian or under
8 court order, or while acting under authority of a deed, trust, or will;

9 (5) Any custodian, janitor, or employee of the owner or manager of a residential building
10 who exhibits a residential unit therein to prospective tenants, accepts applications for
11 leases and furnishes prospective tenants with information relative to the rental of the
12 unit, terms and conditions of leases required by the owner or manager and similar
13 information;

14 (6) Any owner, manager, or employee of a business holding a lodging license while
15 engaging in the lodging business;

16 (7) Any attorney at law, admitted to practice in South Dakota, unless the attorney holds
17 himself or herself out to be in the real estate business or solicits real estate business,
18 in which event the attorney may obtain a real estate license without examination, but
19 the attorney is otherwise subject to the provisions of this chapter;

20 (8) Any bank, bank holding company or subsidiary thereof, trust company, savings and
21 loan association, public utility or any land mortgage or farm loan association
22 organized under the laws of this state or the United States, if engaged in the
23 transaction of business within the scope of its corporate powers as provided by law;

24 (9) Any person or company whose business practice is to collect a fee or compensation

1 to publish real estate listings in print, electronic, or other media;

2 (10) Any person holding, in good faith, a duly executed power of attorney from the owner,
3 authorizing the final consummation and execution for the sale, purchase, leasing, or
4 exchange of real property if such acts are not of a recurrent nature and done with the
5 intention of evading this chapter; and

6 ~~(10)~~(11) Any employee of any person enumerated in this section whose principal duties
7 are other than those duties described in §§ 36-21A-6 and 36-21A-12, if
8 engaged in the specific performance of the employee's duties.